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UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

In Re:

RUDY RAYMOND MESA and

MARCIA RAE MESA

Debtors.

Case No. 2016-90924  
Chapter 7 Case

D.C.N. ADJ-03

Hearing

Date: March 9, 2017

Time: 10:30 a.m.

Place: 1200 I Street, Suite 4  
Modesto, California 95354

Judge: Hon. Ronald H. Sargis

**TRUSTEE'S MOTION FOR AUTHORITY TO SELL PROPERTY AT AUCTION**

Michael D. McGranahan, (the "*Trustee*"), in his capacity as Chapter 7 Trustee for the bankruptcy estate of Rudy Raymond Mesa and Marcia Rae Mesa (the "*Debtors*"), brings this motion to sell property which is property of the bankruptcy estate, which is set forth in paragraph 2, below.

1. On October 7, 2016, the Debtors filed a voluntary petition in this Court under Chapter 7 of Title 11, United States Code. The Trustee was appointed interim trustee in this case on October 7, 2016.

2. As of the date of the filing of the voluntary petition, the Debtors owned property (hereinafter referred to as the "*Property*") which is identified as:

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1           Item Number:           187444  
 2           Description:           1940 Ford Coupe  
 3           License Number:       6CAV833  
 3           VIN:                  CA970819

4           3.     Trustee proposes that the Property shall be sold at auction by Bar None Auction  
 5     (the “*Auctioneer*”) during the auction which is set to take place on April 8, 2017. The sale shall  
 6     take place in accordance with 11 U.S.C. section 363(b) and Federal Rules of Bankruptcy 6004.

7           4.     The auction shall take place at:

8                                  4751 Power Inn Road  
 9                                  Sacramento, California 95826

10           5.     The Trustee has entered into an agreement (the “*Auction Agreement*”) subject to  
 11   this Court’s approval, with the Auctioneer, a completely unrelated third party, to conduct an  
 12   auction for the sale of the Property in accordance with the terms specified herein. A copy the  
 13   Auction Agreement between the Trustee and the Auctioneer is filed herewith as **EXHIBIT**  
 14   **“A.”** The Auctioneer was established in 1993 and is experienced in sale of vehicles. On or  
 15   about even date herewith, the Trustee will file an application to employ the Auctioneer to  
 16   conduct the auction of the Property pursuant to the Auction Agreement.

17           6.     The Auctioneer’s fee schedule is set forth in the Auction Agreement (**EXHIBIT**  
 18   **“A”** filed herewith). This motion also seeks authority to pay the Auctioneer a commission  
 19   equal to 10% of the sale price of the Property in accordance with the Auction Agreement, filed  
 20   herewith as **EXHIBIT “A.”**

21           7.     The Trustee estimates that the Property will sell for \$10,000.00. Following is the  
 22   estimated net proceeds to the estate:

Total Sale Price for all Property:	\$10,000.00
Less: Auctioneer’s Commission:	\$ 1,000.00
Less: Towing Expense	<u>\$ 125.00</u>
Equals: Net Proceeds to Estate:	<u>\$ 8,875.00</u>

27           8.     Authority for this motion to sell an asset of the estate is found in 11 U.S.C. §  
 28   363(b)(1): “The trustee, after notice and a hearing, may use, sell, or lease, other than in the

1 ordinary course of business, property of the estate . . . “ Selling vehicles, as is the case here, of  
 2 this bankruptcy estate is not a transaction in the ordinary course of business.

3       9. Pursuant to the Auction Agreement, the Auctioneer will, within 21 days of the  
 4 auction sale, turn over the “net” proceeds of sale to the Trustee, that is, the gross proceeds less  
 5 auctioneer’s fees.

6       10. Notice of the proposed sale of the Property shall be made pursuant to Federal  
 7 Rule of Bankruptcy Procedure 6004(a). Notice is not required under subsection 7A of the  
 8 Clayton Act; thus, the notice of provisions of 11 U.S.C. § 363(b)(2) do not apply. Notice of the  
 9 proposed sale of the Property shall also be made pursuant to Local Rule 9014-1(f)(2).

10     WHEREFORE, Michael D. McGranahan, acting in his capacity as trustee, respectfully  
 11 prays for an order of this Court:

12     1. Authorizing the sale of the Property in accordance with the terms set forth in the  
 13 Auction Agreement filed as EXHIBIT “A” herewith;

14     2. Authorizing the sale of the Property to the winning bidder at the public auction to  
 15 be held by Bar None Auction, on the date and in the manner as specified herein;

16     3. Authorizing, if the Property should be sold, commission to the Auctioneer equal  
 17 to 10% of the sale price in accordance with the Auction Agreement, filed herewith as EXHIBIT  
 18 “A”;

19     4. That orders the Auctioneer to, within 21 days of the auction sale, turn over the  
 20 “net” proceeds of sale to the Trustee, that is, the gross proceeds less auctioneer’s fees and  
 21 expenses;

22     5. Authorizing the Trustee to execute all documents which are necessary or  
 23 convenient to complete the transactions; and

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6. That provides such further and other relief as deemed appropriate by the Court.

Dated: February 16, 2017

**FORES ■ MACKO**  
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By:

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